



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

October 24, 2023

**VIA ELECTRONIC MAIL TO: mrockwell@interiorgas.com**

Mark Rockwell  
Director, Operations  
Interior Gas Utility  
2525 Phillips Field Road  
Fairbanks, Alaska 99709

**CPF No. 5-2023-009-NOPV**

Dear Mr. Rockwell:

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Interior Gas Utility, which was executed on October 23, 2023. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission and acknowledgement of receipt, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER  
MAYBERRY

Digitally signed by ALAN  
KRAMER MAYBERRY  
Date: 2023.10.24  
11:32:49 -04'00'

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosures: Consent Order and Consent Agreement

cc: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA  
Mr. Daniel Britton, General Manager, Interior Gas Utility, dwbritton@interiorgas.com  
Ms. Elena Sudduth, Deputy General Manager, Interior Gas Utility,  
esudduth@interiorgas.com  
Mr. Zane Wilson, Outside Counsel for Interior Gas Utility, zane@alaskalaw.com

**CONFIRMATION OF RECEIPT REQUESTED**



**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

In the Matter of	)	
INTERIOR GAS UTILITY,	)	
Respondent.	)	CPF No. 5-2023-009-NOPV

**CONSENT AGREEMENT**

From August 2 through 6, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), conducted an on-site pipeline safety inspection of the facilities and records of Interior Gas Utility's (IGU or Respondent) distribution system Fairbanks, Alaska.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated March 1, 2023, a Notice of Probable Violation, Proposed Compliance Order and Proposed Civil Penalty (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that IGU committed violations of 8 provisions of 49 C.F.R. § 192 (Items 1, 3, 4, 6, 7, 8, 9, and 11), and proposed ordering Respondent to take certain measures to correct the alleged violations and a civil penalty of \$107,400. The other probable violations (Items 2, 5, 10 and 12) were brought as warnings, advising the operator to correct the probable violations or face potential future enforcement action.

IGU responded to the Notice by letter dated March 30, 2023 (Response). The company contested the underlying violations and the proposed civil penalty, arguing that as a small business, IGU's ability to conduct business would be adversely affected if required to pay the full civil penalties.

PHMSA and Respondent (the Parties) subsequently met to discuss the issues raised in the Response. As a result of those discussions and as explained in more detail below, PHMSA has agreed to reduce the civil penalties to **\$37,920**.

Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and will serve the public interest by promoting safety and protection of the environment, pursuant to 49 U.S.C. § 60101, *et seq.* and 49 C.F.R. Part 190, and upon consent and agreement, the Parties hereby agree as follows:

## **I. General Provisions**

1. Respondent acknowledges that as the operator of the pipeline facilities subject to the Notice, Respondent and its referenced pipeline facilities are subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Consent Agreement (Agreement), Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder.

2. After Respondent returns this signed Agreement to PHMSA, the Agency's representative will present it to the Associate Administrator for Pipeline Safety, recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of this Agreement.

3. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except for the Dispute Resolution provisions set forth herein. Respondent agrees to withdraw its request for an administrative hearing regarding the Notice.

4. This Agreement shall apply to and be binding upon PHMSA and Respondent, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Respondent's officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

5. This Agreement constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

6. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against Respondent pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal or State law.

7. For all transfers of ownership or operating responsibility of Respondent's pipeline system referenced herein, Respondent will provide a copy of this Agreement to the prospective

transferee at least 30 days prior to such transfer. Respondent will provide written notice of the transfer to the Director no later than 60 days after the transfer occurs.

8. This Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to Respondent's pipeline systems. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. Respondent remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations and permits.

9. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. Respondent agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out any work required by this Agreement.

10. Except as set forth herein, this Agreement does not constitute a finding of violation of any other federal law or regulation and may not be used in any civil proceeding of any kind as evidence or proof of any fact, fault or liability, or as evidence of a violation of any law, rule, regulation, or requirement, except in a proceeding to enforce the provisions of this Agreement or in future PHMSA enforcement actions.

## **II. Findings of Violation:**

11. *Item 1 - 49 C.F.R. § 192.16(b)(1)*: The Notice alleged IGU did not have a customer notification process in place that satisfied the requirements of the pipeline safety regulations. Specifically, the Notice alleged that IGU could not provide any documentation that it had notified customers that it did not maintain their buried piping as required. Respondent contested the violation, stating that it did not believe that the notification requirement was necessary for the vast majority of its customers as the customers did not have any buried piping. However, IGU stated that where it was appropriate, it took action as outlined in its Response.<sup>1</sup> As such, PHMSA finds a violation of 49 C.F.R. § 192.16(b)(1).

12. *Item 3 - 49 C.F.R. § 192.453*: The Notice alleged IGU did not have any personnel who were qualified to conduct atmospheric corrosion inspections. Specifically, the Notice alleged that IGU stated that a course that was specific to buried pipe was adequate training to conduct atmospheric corrosion inspections. In its Response, IGU contested the violation and provided an explanation. IGU stated that it utilizes NACE certified inspectors when conducting atmospheric corrosion inspections at distribution header sites. They also stated that they trained IGU personnel in 2022 and 2023 on conducting atmospheric corrosion inspection at other parts of their system. However, the inspection was conducted in 2021. IGU's Response did not refute the allegations in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.453.

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<sup>1</sup> See Response at 3.

13. **Item 4 - 49 C.F.R. § 192.481(a):** The Notice alleged IGU personnel did not inspect and evaluate IGU's aboveground piping for atmospheric corrosion at the intervals required. Specifically, the Notice alleged that IGU's records for the year of 2019 were insufficient to demonstrate compliance as the records lacked necessary information including whether an inspection occurred, the date of the inspection, who completed the inspection, whether the inspector looked for corrosion, and the findings of the inspection. In its Response, IGU contested the violation, asserting that due to the climate of Fairbanks and North Pole only light surface oxides tend to form on the pipelines, but acknowledged that the inspections were not well documented because that it conducts the inspections in conjunction with routine meter inspections. IGU also stated it took immediate action to remediate the issue after receiving the Notice. As IGU acknowledged it could not provide records demonstrating compliance, PHMSA finds a violation of 49 C.F.R. § 19.481(a).

14. **Item 6 - 49 C.F.R. § 192.625(f)(1)(2):** The Notice alleged IGU did not conduct periodic sampling to verify the proper concentration of odorant in the North Pole distribution system. Specifically, the Notice alleged that at the time of the inspection, IGU could not demonstrate that it had sampled odorant levels for the North Pole distribution system, which was commissioned in January 2021. In its Response, IGU contested the violation and maintained that it was confident it had maintained proper odorant concentrations as required. However, IGU also stated in its Response that all the written records<sup>2</sup> could not be located, and provided a record showing odorant checks first were done on the North Pole system on August 3, 2021. As IGU acknowledged it could not provide records demonstrating compliance, PHMSA finds a violation of 49 C.F.R. § 192.625(f)(1)(2).

15. **Item 7 - 49 C.F.R. § 192.739(a)(3):** The Notice alleged IGU did not complete the required inspection and testing at pressure regulators at Site 1 in the calendar year 2020. In its Response, IGU contested the violation, maintained that it had conducted the required inspection, but acknowledged it could not produce the records for the calendar year 2020. As IGU acknowledged it could not provide records demonstrating compliance, PHMSA finds a violation of 49 C.F.R. § 192.739(a)(3).

16. **Item 8 - 49 C.F.R. § 192.743(a):** The Notice alleged IGU did not confirm the capacity of overpressure protection blowdown pressure relief valve PRV-600 by in-place testing or by review and calculations as required. Respondent did not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.743(a).

17. **Item 9 - 49 C.F.R. § 192.747(a):** The Notice alleged IGU did not conduct any distribution valve inspections in 2019. Respondent did not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.747(a).

18. **Item 11 - 49 C.F.R. § 192.1007(c):** The Notice alleged IGU did not have a written procedure that described the integrity management risk ranking and evaluation process it was utilizing. Respondent did not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.1007(c).

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<sup>2</sup> IGU produced one written record

19. Items 1, 3, 4, 6, 7, 8, 9, and 11, will be considered by PHMSA as prior offenses in any future PHMSA enforcement action taken against Respondent for the five (5)-year period following the *Effective Date* of this Agreement.

### **III. Warning Items:**

20. *Item 2 - 49 C.F.R. § 192.283(a)*: The Notice alleged that IGU did not qualify its joining procedures as required. Specifically, the Notice alleged that though IGU stated it qualified its joining procedures, it did not have a copy of the record demonstrating that testing and qualification of the procedures were completed by the manufacturer or IGU. In its Response, IGU stated that it relies on the manufacturer's literature and statements that the procedures conform to the pipeline safety regulations. IGU also stated it will update its standard operating procedures and records to demonstrate compliance. This Item was brought as a warning Item and does not constitute a finding of violation.

21. *Item 5 - 49 C.F.R. § 192.605(a)*: The Notice alleged that IGU failed to follow its procedural manual for operations, maintenance, and emergencies in two instances. Specifically, the Notice alleged that IGU failed to perform emergency response training as described in its procedure SOP D-1105 and that IGU failed to verify its odorator/detex tools were correct calibrated as required by procedure SOP D-2125. This Item was brought as a warning Item and does not constitute a finding of violation. Respondent accepted the warning as alleged in the Notice. Additionally, IGU stated in its Response that the issues raised in this Item have been corrected.

22. *Item 10 - 49 C.F.R. § 192.756*: The Notice alleged that IGU did not inspect and maintain its joining equipment as required. This Item was brought as a warning Item and does not constitute a finding of violation. Respondent accepted the warning as alleged in the Notice. Additionally, IGU stated in its Response that the issues raised in this Item have been corrected.

23. *Item 12 - 49 C.F.R. § 192.1007(d)*: The Notice alleged that IGU did not implement measures designed to reduce risks from failure of its gas distribution pipelines. Specifically, the Notice alleged IGU personnel could not produce records or verify that the preventative and mitigative measures associated with ranked risks, as identified in IGU's distribution integrity management program, were being implemented. This Item was brought as a warning Item and does not constitute a finding of violation. Respondent accepted the warning as alleged in the Notice.

24. For Warning Items 2, 5, 10 and 12, if OPS finds a violation of these provisions in a subsequent inspection, Respondent may be subject to future enforcement action.

### **IV. Civil Penalty:**

25. *Item 4*: The Notice proposed assessing a civil penalty in the amount of \$20,400 for Item 4. Respondent requested a reduction of the proposed civil penalty and PHMSA agrees to reduce the civil penalty to \$16,700. The reduction is based on reconsideration of the nature of the probable violation from an activity to a records violation after consideration of additional information provided by Respondent.

26. **Item 6:** The Notice proposed assessing a civil penalty in the amount of \$50,200 for Item 6. Respondent requested a reduction of the proposed civil penalty and PHMSA agrees to reduce the civil penalty to \$46,500. The reduction is based on reconsideration of the nature of the probable violation from an activity to a records violation after consideration of additional information provided by Respondent.

27. **Item 7:** The Notice proposed assessing a civil penalty in the amount of \$36,800 for Item 7. Respondent requested a reduction of the proposed civil penalty and PHMSA agrees to reduce the civil penalty to \$31,600. The reduction is based on reconsideration of number of instances the violation occurred from 3 instances to 1 after consideration of additional information provided by Respondent.

#### V. **Additional Small Business Civil Penalty Reduction**

28. PHMSA agrees to further reduce the civil penalty by \$56,880 based on the specific circumstances in this case in consideration of IGU's small business classification.

29. Respondent shall pay an adjusted civil penalty in the amount of **\$37,920**, pursuant to the payment instructions at 49 C.F.R. § 190.227(a) within 60 days of the **Effective Date**.

#### V. **Compliance Order:**

30. The Notice proposed a compliance order with respect to Items 1, 3, 6, 8, 9 and 11 in the Notice for violations of 49 C.F.R. § 192. During the course of negotiation, in consideration of settlement, the Parties have agreed to additional terms. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken actions to address the cited violations for Items 1, 3, 8, 9, and 11. Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice for Items 1, 3, 8, 9, and 11 are not included in this Order.

31. **Item 6:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order. As such, Respondent agrees to perform the following corrective measures:

IGU must complete sampling in the North Pole distribution system with properly calibrated odorant sampling equipment. IGU must provide calibration and sampling records to the Director within 180 days of the **Effective Date**.

32. **Distribution Integrity Management Plan (DIMP) Improvements:** IGU must submit for review and approval a plan to the Director for improving safety and compliance efforts within its DIMP including the projected costs associated with such improvements.

Within 60 days of the *Effective Date*, IGU must submit its plan for improving its DIMP for the Director for approval.

For a period of one year, IGU must submit bi-monthly reports to the Director, demonstrating how the approved plan referenced in paragraph 32 is being implemented, and documenting the costs incurred. The first report is due to the Director sixty days after the plan's approval date

**VI. Enforcement:**

33. This Agreement is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101, *et seq.*, and 49 C.F.R. Part 190, including administrative civil penalties under 49 U.S.C. § 60122, of up to \$225,134 per violation for each day the violation continues and referral of the case to the Attorney General for judicial enforcement, if PHMSA determines that Respondent is not complying with the terms of this Agreement in accordance with the determinations made by the Director, or in accordance with decisions of the Associate Administrator if resolved pursuant to the Dispute Resolution process herein. The maximum civil penalty amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223. All work plans and associated schedules set forth or referenced in Section V are automatically incorporated into this Agreement and are enforceable in the same manner.

**VII. Review and Approval Process:**

34. With respect to any submission under Section V (Compliance Order) of this Agreement that requires the approval of the Director, the Director may: (a) approve, in whole or in part, the submission; (b) approve the submission on specified, reasonable conditions; (c) disapprove, in whole or in part, the submission; or (d) any combination of the foregoing. If the Director approves, approves in part, or approves with conditions, Respondent will take all actions as approved by the Director, subject to Respondent's right to invoke the dispute resolution procedures with respect to any conditions the Director identifies. If the Director disapproves all or any portion of the submission, the Director will provide Respondent a written notice of the deficiencies. Respondent will correct all deficiencies within the time specified by the Director and resubmit it for approval.

**VIII. Dispute Resolution:**

35. The Director and Respondent will informally attempt to resolve any disputes arising under this Agreement, including any decision of the Director under the terms of Section VII. Compliance Order. If Respondent and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised, in writing, to the Director, Respondent may submit a written request for a determination resolving the dispute from the Associate Administrator for Pipeline Safety, PHMSA. Such request must be made in writing and provided to the Director, counsel for the Western Region, and to the Associate Administrator for Pipeline Safety, no later than 10 calendar days from the 15-day deadline for informal resolution referenced in this paragraph. Along with its request, Respondent must provide the Associate Administrator with all information Respondent believes is relevant to the dispute. Decisions of the Associate Administrator under this paragraph will constitute final agency action. The

existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process.

**IX. Effective Date:**

36. The term "Effective Date," as used herein, is the date on which the Consent Order is issued by the Associate Administrator, PHMSA, incorporating the terms of this Agreement.

**X. Recordkeeping and Information Disclosure:**

37. Unless otherwise required in this Agreement, Respondent agrees to maintain records demonstrating compliance with all requirements of this Agreement for a period of at least five (5) years following completion of all work to be performed. For any reports, plans, or other deliverables required to be submitted to PHMSA pursuant to this Agreement, Respondent may assert a claim of business confidentiality or other protections applicable to the release of information by PHMSA, covering part or all of the information required to be submitted to PHMSA pursuant to this Agreement in accordance with 49 C.F.R. Part 7. Respondent must mark the claim of confidentiality in writing on each page and include a statement specifying the grounds for each claim of confidentiality. PHMSA determines release of any information submitted pursuant to this Agreement in accordance with 49 C.F.R. Part 7, the Freedom of Information Act, 5 U.S.C. § 552, DOT and PHMSA policies, and other applicable regulations and Executive Orders.

**XI. Modification:**

38. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

**XII. Termination:**

39. This Agreement will remain in effect until the Compliance Order in Section V is satisfied, as determined by the Director. The Agreement shall not terminate until the Director confirms, in writing, that the Agreement is terminated in accordance with this paragraph. Nothing in this Agreement prevents Respondent from completing any of the obligations earlier than the deadlines provided for in this Agreement.

**XII. Ratification:**

40. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

41. The Parties hereby agree to all findings, conditions, and terms of this Agreement.

[Signature Lines on Following Page]

For IGU:

  
\_\_\_\_\_

10/20/23  
Date

For PHMSA:

**DUSTIN B HUBBARD** Digitally signed by DUSTIN B HUBBARD  
Date: 2023.10.23 10:05:04 -06'00'

Director, Western Region, Office of Pipeline Safety

\_\_\_\_\_  
Date